IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Bail Appl..No. 5869 of 2007()

CRIME NO.212/07 OF VIZHINJAM POLICE STATION

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: PETITIONER/1ST ACCUSED.

K.VASANTHA SENAN, S/O. KESAVAN,
AGED 23 YEARS, RESIDING AT SUKUMARI NIVAS,
THIRUVALLOM, THIRUVANANTHAPURAM.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P

RESPONDENTS: COMPLAINANT & STATE.

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1. THE CIRCLE INSPECTOR OF POLICE,
VIZHINJAM POLICE STATION, VIZHIJAM.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5869 of 2007

Dated this the 8th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Altogether there are 8 accused persons. 3 accused persons are named in the F.I.R. The petitioner is now arrayed as the 1st accused. The alleged incident took place on 14.05.07 at 1 a.m. Earlier on the same night, there was an incident. The alleged incident took place in a bar/hotel. Armed with dangerous weapons, the petitioners and others had allegedly trespassed into the bar/hotel and indulged in wanton acts of violence. Dangerous weapons were used. The defacto complainant was attacked. He suffered injuries. One other employee of the bar/hotel had also suffered injuries. Investigation is in progress. The petitioner apprehends imminent arrest. The petitioner's application for anticipatory bail was dismissed earlier by the learned Sessions Judge.

2. The learned counsel for the petitioner submits that the allegations are totally false. The allegation raised under Section 308 I.P.C is not justified at all. The petitioner is Vasantha Senan. The 1st accused arrayed in the F.I.R is one Ranjit. The petitioner is being proceeded against unnecessarily. In these circumstances, anticipatory bail may be granted to the petitioner, it is submitted.

3. The learned Public Prosecutor submits that the petitioner is the 1st accused. He has the name Vasantha Senan @ Ranjit. The petitioner is the miscreant who is referred to as the 1st accused. In the F.I.R, he is described as Ranjit. But in the case dairy his name is shown as Renjith @ Vasanthasenan. In these circumstances, attempt to make a mountain of that innocuous omission to mention the alias name in the F.I.statement cannot deliver any advantage to the petitioner, it is submitted.

4. The learned Public Prosecutor has further pointed out the nature of the injuries suffered by the victims - 2 in number as also the allegations about the offence and the nature of the weapons used. The learned Public Prosecutor submits that all the available indications point to the complicity of the petitioner as the principal accused for the offence punishable under Section 308 I.P.C. There are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C, submits the learned Public Prosecutor .

5. Having considered all the relevant inputs, I find merit in the objection raised by the learned Public Prosecutor. I do not find any features in this case which justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must resort to the ordinary and normal

course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail.

6. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-